



Wexford Joint Planning Commission

% Cherry Grove Township
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Cadillac, Michigan 49601

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(231)775-1138x6

November 15, 2017

STAFF REPORT/SUPPLEMENTAL

1. Application

Applicant's Agent:	Harry Luzius, Professional Engineer
Owner:	Jerry Perry
Owner Address:	7864 S. 1 ½ Rd Harrietta, MI 49638
Site Address, Contact Information, And Proposed Location	7892 S. M-37 Hwy Wellston, MI 49689 Parcel ID# 2112-07-4301 – South Branch Township
Zoned:	Split Zoned C-1 and R R, Approximately 10 acres Commercial, 10 Acres Rural Residential
Site Plan:	Attached (Exhibit A)

2. Development Proposal

- 2.1 Property Description – The property is located in Section 7, South Branch Township, at the NW Corner of M-37 and M-55. The property is approximately 20.2 acres, or 879,790 square feet. Assessment Role Description reads: Part of SE ¼ Desc as Com at S ¼ Post of Sec; N Alg N-S ¼ Ln 132.04 ft to N Ln of Hwy M-55 and POB: N 1189.59 Ft; E 491 ft to W'ly Ln of Hwy M-37; S23D02'04" E Alg Ln 1152.58 ft S34D06'34" W Alg Clear Vision Area Hwy R/W Ln 164.43 ft to N line of Hwy M-55; W Alg SD N Ln 819.72 ft to POB. 19.81 A. M/L SB. Sec. 7 T21N R12W.
- 2.2 Action Report – The Applicant is coming back before the PC with a Supplemental Site plan addressing the previous PC meeting concerns of October 23, 2017 in every aspect. Applicant was presented with a Punch List by the Planning and Zoning office on November 2, 2017 which included every concern discussed at the October 23, 2017 PC meeting. These concerns are all addressed in Applicant's new narrative in **Bold Red Italics**. (See Attached)

- 2.3 The Punch List of November 2, 2017 included the following items for additions to make to the site plan and the narrative, per the PC minutes of the October 23, 2017 meeting.

SITE PLAN ADDITIONS:

- A. WJZO 1050 – Driveway Design. Gates must be two (2') feet wider than driveway, and gates should be back thirty (30') feet from the road right of way.
 - a. New Site Plan demonstrates compliance
- B. WJZO 1051 – Location of Driveway. Location should be fifty (50') feet driveway across the road. Berm is currently encroaching on driveway.
 - a. New Site Plan demonstrates compliance
- C. WJZO 1054 – Parking Space. Minimum area of 10'x 20' and not 9'x 20' as was on the last Site Plan. Parking roadway must be 26' wide for two-way traffic and 18' wide for single aisle traffic.
 - a. New Site Plan demonstrates compliance
 - i. Maximum calculated parking based on Article 10, Section 1054 is 294; the applicant has provided 494.
- D. WJZO 1054.N.7 – Loading and unloading space needs to be asphalt or cement, etc. Driveway going behind the building for unloading zone.
 - a. New Site Plan demonstrates compliance
- E. Entrance to the event will be off of M-55 unless clearance can be received from Wexford County Road Commission to use an entrance off of 1 ½ Road.
 - a. New Site Plan demonstrates compliance
 - i. MDOT permits provide ingress and egress from M-55 or M-37
 - 1. Permit #41326

NARRATIVE ADDITIONS:

- A. Eliminate Wet T-Shirt Contest as per statement by Mr. Perry.
 - a. New Narrative, page #2 (1.a) states that no Wet T-Shirt contests will be held on the premises at any time, demonstrating compliance
- B. State the Hours of Operation – Mud Pit will be from 12 -7 p.m.
 - a. New Narrative, page 2 (1.b) states that hours of operation for the Mud Pit will be from 12 Noon to 7 PM, demonstrating compliance
- C. State that music will end at 10 p.m. NOTE: The new Perry report states, "Music concerts will occur on the premises only on the day of the Mud Pit Event, **Concerts will end no later than 11 PM.**" The Punch List reflected the Minutes of the previous meeting which stated: "Noise control to have monster trucks 12 noon to 7 pm and music off at 10 pm. (Minutes, page 3, paragraph 2)"
 - a. Planning and Zoning Administrator Note: Although there was a preliminary consensus that music would end at 10 pm, this is subject to final review and decision by the Wexford Joint Planning Commission
- D. Added softball game future intentions.
 - a. New Narrative, page #2 – soft ball field use stated, demonstrating compliance
- E. No camping will be allowed on this site unless approved in the future.
 - a. New Narrative, page #2 (1.d) states that no camping will be allowed on site at any time absent an amendment to any existing Special Use Permit, demonstrating compliance
- F. Storage of Canoes will be inside the building. No storage of canoes outside.

a. Note: While storage of canoes inside the building has preliminarily been agreed to, this provision does not appear to be a reasonable expectation for an enterprise of this nature

G. A security plan will be put in place.

a. New Narrative, page #4 (bottom of page) indicates that there is progress towards the establishment of a security plan for Mud Pit events, however, there is currently no plan in place, therefore, compliance has NOT been demonstrated.

3. Standards for Site Plan Review

3.1 According to WJZO Article 9411 – The following standards shall be used by the Planning Commission to review site plans.

1. Does the site plan show “all applicable regulations of this Ordinance” both “generally to all districts,” and apply to this “specific zoning district” (C and/or R-R)? (Refers to page 141 WJZO 9411.A)
2. Have “all utility easements” been “distributed on site in a manner which is least harmful to surrounding properties?” And, are all “electric, telephone, and coaxial cable and other lines” to be located (if not already located) underground? (Refers to page 141 WJZO 9411.B)
3. Are all “water lines, sewer lines,” and “all provisions of surface water drainage” approved by respective agencies?

3.2 Findings of Fact and Conclusions of Law

1. As per WJZO 9412, “within sixty (60) days of the site plan being found complete, the Commission shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.”
2. The Planning Commission found difficulties with the previous Site Plan at the meeting of October 23, 2017. At that meeting they discussed in detail all of the corrections to the Site Plan that would satisfy their questions for the health, welfare and safety of individuals who would have interaction with the property and the activities thereon.
3. Reasons for Approval are due to the fact that these difficulties from the PC have been met in their entirety by the current Site Plan and Narrative from the Applicant. WJZO 9412.C states that there should be “reasons for approval” of the Site Plan. Since all of the “reasons for rejection” have been met by the Applicant, then approval should be given by the Planning Commission.
4. According to WJZO 9417, “minor nonsubstantive changes may be made to an existing approved site plan if such change is sought prior to the issuance of an occupancy permit for work authorized by the Special Use Permit.” The minor

changes to the previous Site Plan have been made in their entirety, leading to the conclusion that the Site Plan should be approved.

Recommendation #1 – Approval of the Site Plan

"The Planning and Zoning Administrators recommend the Planning Commission approve the Site Plan as it is currently expressed. We find the current Site Plan complete and transparent concerning the existing structures and proposed future structures."

4. Standards for Special Use Permit with Staff Comments and Recommendations

- 4.1 According to WJZO Article 8609 – The following standards shall be used by the Planning Commission to review Special Use Permits.

(Note: This is concerning the R-R portion of the parcel which has the 30'x40' current Open-Air Event Pavilion building, the proposed additional Open-Air Event Pavilion, and the Mud Bog.)

1. Is the use reasonable and designed to protect the health, safety, and welfare of the community? (Refers to page 131, Section 8609.A.1)
2. Is the use consistent with the intent and purpose of the district? (Refers to page 131, Section 8609.A.2)
3. Is the use compatible with adjacent land uses? (Refers to page 131, Section 8609.A.3.)
4. Is the use designed to ensure that the public services and facilities are capable of accommodating increased loads caused by the land use or activity? (Refers to page 131, Section 8609.A.4.)
5. Does the use comply with other general and specific standards in section 1601 of this ordinance, the respective district, and general provisions of this ordinance? (Refers to page 131, Section 8609.A.5.)

4.2 Findings of Fact and Conclusions of Law

1. The above section of the Ordinance (WJZO 8600, et. Seq.) have been met in their entirety, taking into consideration the text of the Minutes of the October 23, 2017 PC meeting, and the Punch List compiled by the Administrators related to these same minutes.
2. Special Use Permits, as per WJZO 8616 – Expiration of Special Use Permits, are issued for one year only. An SUP will expire according to the Ordinance "if the use is not used, moved or vacated for a period of one year."

3. This Ordinance section (WJZO 8600) specifies that the secondary phase of the Site Plan must be started within one year of the approval of the Special Use Permit for the Site Plan of the Rural Residential District of the property.
4. No changes of the usages approved in the Special Use Permit area may be changed pursuant to WJZO 8614, unless the Applicant makes an Amendment to the Special Use Permit as per WJZO 8613.
5. Therefore, as determined via the previous PC meeting on October 23, 2017, the Special Use Permit should be granted to the Applicant.

Recommendation #2 – Approval of the Special Use

“The Zoning Administrators recommend the Special Use Permit be approved by the Planning Commission as is suggested above in the findings and conclusions contingent upon, -the applicant providing a basic security plan to be implemented while the Mud-Pit events are taking place”.

The security plan shall be provided to the Planning and Zoning Administrator not later than January 31, 2018.

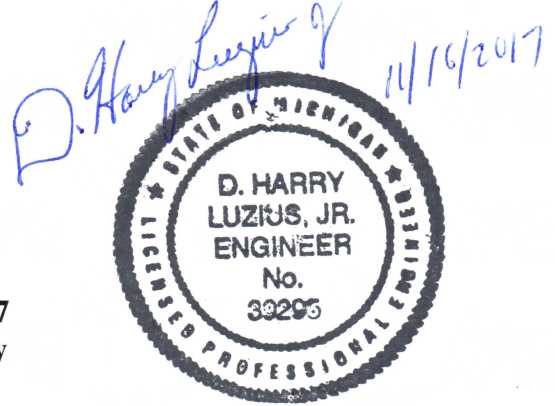
Respectfully submitted,



Robert A. Hall, Planning and Zoning Administrator

cc: Perry V2 file

Narrative for
Special Use Permit Application
For River Rat Off Road Park
at NW Intersection of M55/M37
Owned by Jerry and Amy Perry



October 11, 2017

*With revisions resulting from Public Hearing dated October 23, 2017
(Shown in bold, red italics)*

General

The parcel in question is located in Section 7 of South Branch Township, more specifically at the north-west corner of M55 and M37. It is owned by Jerry and Amy Perry, dba River Rat Canoe and Kayaks. The parcel identification number is 2112-07-4301, and is approximately 20 Acres in size.

There is little relief of the parcel. From south to north the elevation changes approximately five feet over the course of 1,200± ft., which is a gradual slope of less than 0.5%. A soils evaluation was conducted by District Health Dept. No.10, and a septic and well permit was issued for the proposed commercial building. The soils evaluation shows that 2-inches of Brown, Sandy Loam Topsoil, and 74-inches of Tan Loamy Sand were encountered. The site is composed of a stand of natural pine trees, many of which have been cleared.

Zoning

The lower south east third of the parcel is zoned C-1 Commercial. It is comprised of 7.5 Acres±. The remainder of the north and west of the parcel is zoned R-R, Rural Residential.

Commercial Zoning Portion

The developer intends to develop several commercial enterprises in one building. The “flagship” use on the premises is a 12,640 s.f. structure located in the C-1 portion of the property. It is intended to be used for commercial purposes. The following uses are being proposed within the facility, all of which are included in the permitted uses category for Commercial District Zoning. They are listed as follows: 1) a convenience store (*Retail Trade---Article 5502.E*); a sports bar (*Accommodation and Food Services---Article 5502.O*); a canoe livery for a canoe rental operation (*Real Estate and Rental and Leasing---5502.I*); and an antique automobile museum (*Arts, Entertainment, & Recreation---Article 5502.N*).

(Note: The canoe rental operations took place in portable buildings located in front of the proposed commercial building. These portable buildings will be removed when the commercial building is completed and all operations are moved into the permanent building.)

As a result of the public hearing in October, the following clarification is being offered: Storage of canoes will be inside the building. No storage of canoes will be outside of the building.

The commercial sector has access from both M55 and M37. An MDOT Permit has been secured for these access points. It is designated as MDOT Entrance Permit No. 41326.

Phase 2 Land Improvements within the Commercial Zoning Portion

Mr. Perry intends to develop a ball field for community events. This is to be located behind the portion of the structure where the sports bar will be located. It is intended to be developed 2-5 years from approval of the site plan. *As a result of the public hearing in October, the following clarification is being offered: Currently, Mr. Perry does not have a specific plan for the number of soft ball games and what dates they would occur. However, on a general note, he intends to conduct league games in the summer. His plan is to reach out to soft ball leagues in the area and offer his soft ball field for use in league games.*

Rural-Residential Zoning Portion

Generally, the uses on the rural-residential portion of Mr. Perry's property are intended to support and be in harmony with the commercial use. Site Plan improvements in the Rural-Residential Zoning Portion are as follows:

1. The special uses will involve a Mud Pit Event Area, which is allowable under *Spectator Sports--Article 3703.GG*. This area will be used to hold an annual Mud Pit event. Guard railing is installed for protection of the spectators. An existing covered Open-Air Pavilion is located adjacent the Mud Pit Area. The Pavilion is 3,770 sq. ft. and has a sloped roof, 12-18 feet in height. A second Open Air Pavilion is proposed 2-5 years from approval of the site plan. It will contain 3,770 sq. ft. and will not exceed 20 feet in height. *As a result of the public hearing in October, the following clarifications and stipulations regarding the Mud Pit Event are being offered:*
 - a. *There will be no Wet T-Shirt Contests held on the premises at any time;*
 - b. *The hours of operation of the Mud Pit Event will be from 12 Noon to 7 PM;*
 - c. *Music concerts will occur on the premises only on the day of the Mud Pit Event. Concerts will end no later than 11 PM.*
 - d. *No camping will be allowed on the site, during the Mud Pit Event or any other time, unless specifically requested by Mr. Perry in the future through an amendment to the Special Use Permit.*
2. The site plan shows access to the event area by means of proposed driveway off 1 ½ Rd. According to Mr. Perry, the Road Commission has made several on-site visits and have expressed no objections to the presence of the driveway. We are currently reaching out to the road commission to determine if any additional correspondence will be required to memorialize the existence of the driveway. *As a result of the public hearing in October, the following clarification is being offered: After discussions with Mr. Karl Hanson, County Highway Engineer for Wexford County, Mr. Perry has decided to provide access to the Mud Pit event from the MDOT permitted driveway on M55. The site plan has been revised to reflect this change. The drive off of S 1 ½ Rd. will be permitted as an access drive only. A driveway permit application has been submitted to the County Road Commission.*
3. A grand stand area with seating for 1,000 is proposed 2-5 years from approval of the site plan. Seating for handicapped will be in front of the grand stands, adjacent to the guard railing.
4. An area for vendors is proposed behind the guard railing to allow the sale of food and beverages for "post Mud Pit" socializing. This will allow the stationing of temporary food stands, which is

consistent with allowable special uses under *Section 3703 T and U, Meat and Meat Product Wholesale, and Fresh Fruit and Vegetable Wholesale.*

5. Ancillary uses such as parking will flow over into the portion of the property which is zoned Residential. As the mud pit event is scheduled to be no more than two events per year, parking will be marked by temporary "football event" striping. Parking is shown on the site plan, with 453 designated parking spaces, plus 30 ADA spaces close to the event area.
6. Plus, a portion of the proposed ball field will be located in the R-R section of the property. This is allowable under *Fitness & Recreational Sports Centers--Article 3703.KK.*

Phase 2 Land Improvements within the Rural-Residential Zoning Portion

As alluded to previously, the grand stand area is envisioned to be installed 2-5 years from now. Additional guard railing will be installed. Plus, a permanent bathroom facility will be installed, dependent on the issuance of a septic permit from the health department. *According to Mr. Perry there will be no more than two events per year, with the addition of the permanent facility. The facility is a "bells and whistles" feature which, if finances allow, will be an added attraction to serve the needs of his customers.*

Appurtenances

A 15-foot wide by 8-foot high berm will be placed around the perimeter of the property to act as a visual barrier. The surrounding properties at this intersection are commercial in nature; thus, the proposed uses on this site are consistent with the general land uses of the adjoining properties. Landscaping is shown around the perimeter of the berm. It consists of coniferous trees, approximately 20 feet apart, throughout the R-R zoned area, consistent with *Section 1062 D.m. Landscaping standards.*

Outside lights are either pole mounted or building mounted. The lighting shall be LUMARK PFPRV-1-A60-T3-20 LED Fixtures and also LUMARK PFPRV-2,3or4-A60-T4-20 LED Fixtures or equal. These fixtures are night sky compliant and designed to be confined to the light to the subject property, as required in *Section 1061. Outside Lights, Paragraph A.*

There will be no significant natural features removed or modified.

There will be no additional effluent discharged into the air. Any additional noise will be mitigated by the man-made buffer mentioned in the previous paragraph.

To the best of our knowledge and belief, the proposed land use and also the site plan layout are in compliance with the general provisions of the ordinance as well as the requirements for the respective Commercial district. Furthermore, ancillary and support operations such as parking will flow over into the Residentially zoned portion of the property. Therefore, a special use permit will be needed for those activities. With respect to Special Use Permit Criteria, as defined in Section 8609 of the Joint Planning Commission Zoning Ordinance, we offer the following comments:

1. Is the use reasonable and designed to protect the health, safety and welfare of the community?
Answer: Yes, with the man-made buffer designed to act as a visual and sound buffer, the health, safety and welfare of the community is being protected.
2. Is the use consistent with the intent and purpose of the district?

Answer: Yes---a permitted use for Rural Residential is Spectator Sports (Article 3703.GG). The mud pit event center is located within the Commercial Zoning; the parking which will support the event center is located in the RR zoning. Since the parking in question is supporting a permitted use, it is therefore consistent with the purpose of the district.

3. Is the use compatible with adjacent land uses?

Answer: The adjacent land uses are primarily commercial in nature. As the primary land use of this parcel is also commercial, then it can be considered compatible with adjacent land uses.

4. Is the use designed to ensure that public services and facilities are capable of accommodating increased loads caused by the land use or activity?

Answer: Yes—the infrastructure of the business has been approved by the local health department. The additional septic infrastructure on the west end of the development is designed to accommodate larger crowds during entertainment events.

5. Does the use comply with other general and specific standards in Section 1601 of this Ordinance, the respective district, and general provisions of this ordinance?

Answer: This site is in compliance with the general provisions of this ordinance in terms of parking, signage (no more than a total of 160 sq.ft.), outside lighting and landscaping.

Security Recommendation System:

During the event in August of this year, planning commission staff noted that were approximately 50-60 people sitting along the top of the berm directly in front of the Mud Pit. This raises several security concerns. There were children observed jumping off the berm toward M-37. Plus, there was a significant amount of foot traffic from the Mud Pit event to the business on the other side of M-37.

As shown on the site plan, chain link fences are to be erected, connecting the berms to the commercial building, enclosing the entire event area. Thus, foot traffic to the neighboring business will be minimized if not eliminated entirely. Plus, when the commercial building enterprises are completed and the area for vendors is opened, this will also discourage any incentives to cross the street to the neighboring building.

Nonetheless, an additional step will be required to provide crowd management during these events, so as to ensure the general safety of the attendees at the event. In order to keep people out of dangerous areas, off duty police and/or fire and rescue people will be present the entire day of the event. They will be utilized to assist in traffic control, parking, and ensuring that the designated venues for viewing (i.e., behind the guard railing on the west portion of the site) of the event is the only place where attendees are located.

As a result of the public hearing in October, the following clarification is being offered: Mr. Perry has contacted Sheriff Rich Martin of Lake County. According to Mr. Perry, Sheriff Martin has agreed to put a security plan for the Mud Pit events in place.

Utilities:

Electric Utilities/Utility Easements:

**River Rat Off Road Park
Jerry Perry
Special Use Permit Application**

The area is served by Consumers Energy. An overhead power line runs along the south edge of the property parallel to M-55. An existing utility easement is shown on the site plan. There are no other known utility easements on the property.

On the north end of the property, a conduit and electric riser was installed to provide power to the existing and proposed open air pavilion areas. The electric riser is shown on the site plan.

Sewer Considerations

An on-site septic permit has been issued for this facility.

Water Considerations

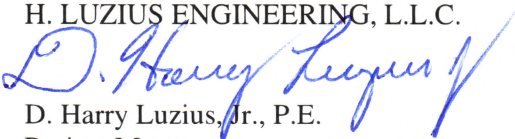
A Type III well permit has been issued for this facility and has been installed. The well meets all isolation distance requirements, including a setback of 800 ft. from the gas station on the east side of M37. A copy of the well log is attached.

Site Drainage/Storm Water Control:

The drainage patterns for rain fall run are generally to the north and east. Proposed retention ponds are shown adjacent the hard surface areas near the commercial building and parking lot. The client has received a soil erosion permit from Wexford County.

Respectfully submitted;

H. LUZIUS ENGINEERING, L.L.C.



D. Harry Luzius, Jr., P.E.
Project Manager